THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.24484 of 2005

Between:

T.G.L.V.High School (Aided) Adoni.

.. PETITIONER

AND

The District Educational Officer, Kurnool

and others.

.. RESPONDENTS

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ORDER:

The petitioner is a High School at Adoni, admitted to grant-in-aid. On account of retirement of the existing employees, as many as (7) teaching posts have fallen vacant. The petitioner submitted a representation, dated 30.10.2004, to respondents 1 and 2 seeking permission to fill the vacancies, but no orders have been passed thereon. The first respondent is said to have accorded permission on 14.09.2004. The petitioner states that respondents 1 and 2 are not taking any action in the matter of filling the existing vacancies and the same is challenged in this writ petition.

Sri Ch.Jagannatha Rao, learned counsel for the petitioner submits that on account of non-existence of incumbents against the vacancies, the teaching in the institutions is suffering and there does not exist any justification on the part of the respondents in not taking steps to fill the existing vacancies. He contends that the total ban imposed on recruitments against aided vacancies runs contrary to the very spirit of admitting institutions to grant-in-aid.

Learned Government Pleader for school Education, on the other hand, submits that the Government has taken a policy decision not to accord permission for filling up the existing aided vacancies in view of the fact that in several aided institutions, there are surplus teachers and efforts are being made to redeploy the surplus staff against the existing vacancies. He contends that the institutions of the petitioner would be adequately protected by posting the surplus staff.

The three institutions established by the petitioner are admitted to grant-in-aid. The purpose of admitting institutions to grant-in-aid is to rescue the private managements from the financial difficulties, in the matter of imparting education, particularly, at school level. The petitioner did not have any complaint till recently. In the three institutions, as many as 15 vacancies arose. The relevant provisions mandate that a vacancy, which is admitted to grant-in-aid, can be filled up, only after obtaining the

permission of the concerned authority in the Education Department. It was in this context, that the petitioner submitted a representation, dated 30.10.2004.

It is not in dispute that the Government is competent to redeploy or transfer the employees from one aided educational institution to another aided institution. The only restriction is that the transfer shall be made within the zone of appointment in accordance with the Presidential order, issued under Article 371-D of the Constitution of India. The district happens to be the zone of appointment for the posts of teachers in the High Schools. Therefore, no exception can be taken to the policy formulated by the Government, to redeploy the teachers from such of the aided institutions where they are surplus, against the vacancies in the other aided institutions. In fact, the petitioner does not seriously dispute the power of the Government in this regard. However, on the pretext of undertaking such an exercise, the matter cannot be delayed indefinitely. It hardly needs an emphasis that any delay in redeployment of the teachers or appointing them, as the case may be, would have its adverse effect on the quality of education in the concerned institutions.

For the foregoing reasons, the writ petition is disposed of directing that respondents 1 and 2 shall undertake an exercise forthwith, to identify the surplus posts of teachers in aided institutions within the district. The surplus teachers, so identified in the respective disciplines or places, shall be posted against the vacancies existing in the three institutions established by the petitioner, within six weeks from today. In case, no such surplus teachers are found or no deployment is undertaken within that period, respondents 1 and 2 shall accord permission to the petitioner, to fill the vacancies in accordance with law, within a period of four weeks thereafter.

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07-12-2005

Note:

Issue C.C. in three days.

(B/o)

Prv